

of publication, unless we receive comments that will result in a contrary determination.

Dated: September 7, 2000.

**Patrick F. Kennedy,**  
*Assistant Secretary for the Bureau of Administration.*

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## DEPARTMENT OF STATE

### Inspector General

[Public Notice 3418—corrected]

#### State Department Performance Review Board Members (Office of Inspector General)

In accordance with section 4314(c)(4) of the Civil Service Reform Act of 1978 (Pub. L. 95-454), the Office of Inspector General of the Department of State has appointed the following individuals to its Performance Review Board register.

Margaret P. Grafeld, Director, Office of Information Resources, Bureau of Administration, Department of State  
Dennis Duquette, Deputy Inspector General for Management Policy, Department of Health and Human Services

Carol Levey, Assistant Inspector General for Investigations, Department of Defense

Dated: September 6, 2000.

**Jacquelyn L. Williams-Bridgers,**  
*Inspector General, Department of State.*

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## DEPARTMENT OF STATE

[Public Notice 3416]

#### Determination by the Department of State Regarding Shrimp Imports From the Northern Prawn Fishery of Australia

**SUMMARY:** The Department of State has determined that shrimp harvested in Australia's Northern Prawn Fishery in Australia ("NPF") are harvested in a manner that does not pose a threat of the incidental taking of sea turtles. Accordingly, the prohibitions on the importation of shrimp set forth in Section 609 of Public Law 101-162 do not apply to shrimp harvested in the Northern Prawn Fishery.

**DATES:** September 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Hogan, Office of Marine Conservation, Bureau of Oceans and International Environmental and

Scientific Affairs, Department of State, Washington, DC, telephone number (202) 647-2335.

**SUPPLEMENTARY INFORMATION:** Section 609 of Public Law 101-162 ("Section 609") prohibits the importation of shrimp and products of shrimp harvested with commercial fishing technology that may adversely affect species of sea turtles protected under U.S. laws and regulations.

The President delegated authority for implementing Section 609 to the Department of State. On April 19, 1996, in the exercise of this authority, the Department of State determined that the import prohibitions of Section 609 do not apply to shrimp harvested under certain conditions, since such harvesting does not adversely affect sea turtle species. The Department of State published a notice in the **Federal Register** on July 8, 1999 (Public Notice 3086, 64 FR 36946), which revised the guidelines used by the Department in implementing Section 609 to elaborate these conditions.

The relevant provisions of those guidelines follow:

#### "B. Shrimp Harvested in a Manner Not Harmful to Sea Turtles

The Department of State has determined that the import prohibitions imposed pursuant to Section 609 do not apply to shrimp or products of shrimp harvested under the following conditions, since such harvesting does not adversely affect sea turtle species:

a. Shrimp harvested in an aquaculture facility in which the shrimp spend at least 30 days in a pond prior to being harvested.

b. Shrimp harvested by commercial shrimp trawl vessels using TEDs comparable in effectiveness to those required in the United States. (emphasis added.)

c. Shrimp harvested exclusively by means that do not involve the retrieval of fishing nets by mechanical devices, such as winches, pulleys, power blocks or other devices providing mechanical advantage, or by vessels using gear that, in accordance with the U.S. program described above, would not require TEDs.

d. Shrimp harvested in any other manner or under any other circumstances that the Department of State may determine, following consultation with the National Marine Fisheries Service, does not pose a threat of the incidental taking of sea turtles. The Department of State shall publish any such determinations in the **Federal Register** and shall notify affected foreign governments and other interested parties directly."

The revision of the Department of State's guidelines also included a decision to undertake regular examinations of the procedures that governments of uncertified nations have put in place for verifying the accurate completion of the DSP-121 forms. TED-caught shrimp harvested in a nation without such procedures will not be permitted to enter the United States.<sup>1</sup>

The Government of Australia passed a law effective on April 15, 2000, requiring the use of TEDs by all commercial shrimp trawl vessels operating in the Northern Prawn Fishery of Australia ("NPF"). Based on extensive information provided by the Government of Australia concerning this law and its implementation, and in consultation with the National Marine Fisheries Service, the Department has since determined that shrimp harvested in the NPF after April 15, 2000, meet the requirements for the exception relating to "TED-caught" shrimp.

The Department and the National Marine Fisheries Service also sent a team of experts to visit the fishery to examine the TEDs in use there and to assess the Government of Australia's measures to ensure compliance with their TEDs regulation. The team found that the vessels in the fishery were equipped with TEDs that were comparable or of the same design as those used in the U.S. fishery, and these TEDs would therefore be comparable in effectiveness. The team also found that the Australian Fishery Management Authority has measures in place to ensure the use of TEDs and to make the certification on the DSP-121 (Shrimp Exporter's/Importers Declaration) that shrimp products from the fishery were harvested using TEDs.

Consequently, shipments of Ted-caught shrimp from Australia harvested after April 15, 2000, in addition to shipments of TED-caught shrimp from Brazil, shall be allowed to enter the United States if accompanied by a properly completed DSP-121 form which includes the signature of an official of the harvesting country with direct knowledge of the method of harvest.

<sup>1</sup> On July 19, 2000 the U.S. Court of International Trade held that the Department's policy was on its face inconsistent with the terms of the statute, but declined to direct the Department to change its policy. *Turtle Island Restoration Network, et al. v. Mallett, et al.* (Court No. 98-09-02818) A decision on whether to appeal this case is currently pending. In the meantime, the Department is keeping in place its policy of permitting the imports of Ted-caught shrimp from countries that meet Department requirements.